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10/730,692	12/08/2003	Kurt R. Thielen	33826/US/2	4306

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EXAMINER
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BRINEY III, WALTER F

ART UNIT	PAPER NUMBER
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2614

MAIL DATE	DELIVERY MODE
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06/04/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/730,692	<b>Applicant(s)</b> THIELEN, KURT R.	
	<b>Examiner</b> WALTER F. BRINEY III	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 25 May 2010 has been entered.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 21-25, 27-32 and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication 2001/0004397 A1 (published 21 June 2001) (“*Kita*”) in view of US Patent Application Publication 2003/0055516 A1 (filed 29 June 2001) (“*Gang*”).**

**Claim 21** is limited to a player for storing and playing back media content received from a remote content source pursuant to stored user content preferences. Similarly, *Kita* discloses a “Body-Wearable Type Music Reproducing Apparatus and Music Reproducing System Which Comprises Such Music Reproducing Apparatus.”

The music reproducing apparatus 100/2400 of *Kita* is generally conceived as a

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wristwatch with music reproduction components 211 and 212 as seen in figs.4 and 27. In operation, the music reproducing apparatus cooperates with an external device 800 that in turn downloads music from a music distribution service site. *See Kita* at ¶¶ 155, 172, fig.4. The music reproducing apparatus 100/2400 and external device 800 correspond to  
5 the claimed player while the music distribution service site corresponds to the claimed content source. *Kita*, however, is absolutely silent regarding how device 800 determines which music files are downloaded from the music distribution service site. Accordingly, *Kita* fails to disclose a player that plays back media content received from a content source *pursuant to stored user preferences*. This deficiency will be treated *infra* apropos  
10 the third element of this claim.

The body of this claim includes four elements: (1) a first storage medium, (2) a second storage medium, (3) a transceiver link a transceiver link for communicating with the content source and (4) a first instruction component. Concerning the first element, this claim requires a storage medium for storing media content for playback. *Kita*  
15 discloses a memory card 209 for storing music received from a music distribution service site. *Kita* at ¶ 172.

Concerning the third element, this claim requires a wireless transceiver link for communicating with the content source. *Kita* discloses an external device with a LAN interface 808 and a MODEM 809 for establishing communication with a music  
20 distribution service site corresponding to the claimed content source. *Id.* at ¶ 164, fig.4. *Kita* also discloses that external device 800 can be a mobile phone that wirelessly connects to the Internet 900. *Id.* at ¶¶ 213-16, 17B.

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Concerning the second and fourth elements, this claim requires the following:

“a storage medium in the player for storing data representing user content preferences, said user content preferences data based at least in part on user inputs accepted at the player and usage file data collected on the player;

5 a first instruction component for establishing communication with the content source using the transceiver link and using such link for wireless downloading onto the media content storage medium one or more content files responsive to the player-stored user content preferences, said first instruction component performing player-initiated content downloads using player-stored user  
10 content preferences to locate content at the at least one content source.”

*Kita* likewise discloses a control unit 801 that causes either LAN interface 808 or MODEM 809 to wirelessly download music (if device 800 is a mobile phone as in fig.17B) from a music distribution service site corresponding to the claimed content source. *See id.* at ¶ 164, fig.4. *Kita*, however, is silent regarding how device 800

15 determines which music files are downloaded from the music distribution service site. Accordingly, *Kita* fails to disclose that the music downloaded by external device 800 is downloaded responsive to *stored user content preferences data*, let alone a storage medium for storing those preferences.

Notwithstanding the differences between *Kita* and the claimed invention, one of  
20 ordinary skill in the art at the time of Applicant’s invention would have found obvious modifying *Kita* to store the claimed user content preferences data. *Gang* discloses an invention entitled “Using a System for Prediction of Musical Preferences for the Distribution of Musical Content over Cellular Networks.” The *Gang* system includes a client 74 for downloading music, server 70 for providing musical recommendations to the  
25 client and an interconnecting network 78. *Gang* at ¶¶ 5-7, 61-65, FIG.1. One of the goals of the *Gang* system is to reduce airtime usage for music downloads. *See id.* at ¶¶ 3-

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4. Server 70 helps to accomplish this goal by recommending music for a client based on client preferences gleaned from express user ratings of songs or indirect ratings based on prior actions, such as listening to music, saving music or buying music. *Id.* at ¶¶ 66-73, 78. In this way, *Gang* eases the difficulty of picking out new songs by reducing the time required and effort necessary for a user to comb through a database of music. *See id.* at ¶¶ 3-4. Moreover, the operation of the *Gang* system further minimizes airtime usage by closing a connection between server 70 and client 74 whenever possible. For instance, *Gang* discloses closing a connection while a user is listening to songs and preparing ratings for the songs. *Id.* at ¶¶ 66-73.

10           The emphasis on reducing airtime usage and the nature of the prior actions used for indirectly ascertaining a client's music preferences suggests that the prior actions are logged, in part, on client 74. In particular, one of the disclosed prior actions is listening to music, an act that occurs on client 74, not server 70. *See id.* at ¶ 69. If the *Gang* server 70 logged each act of listening to music directly, there would be a large number of  
15       connections open between each client 74 served by server 70. This would be contrary to the goal of *Gang* to reduce the number of open connections at any time. The more reasonable alternative is that each client 74 logs when music is listened to in a similar fashion to how client 74 logs user ratings of songs in a downloaded song vector. Then, when a user is ready to request music recommendations, the client transmits the music  
20       listening log to server 70.

          Given the silence of *Kita* as to how to download music, and the emphasis of *Gang* on designing a music downloading system to reduce airtime usage, one of ordinary skill

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in the art at the time of Applicant's invention would have found obvious using user content preferences data to assist in downloading music from the Internet 900 to player 100 via external device 800. In implementing the teachings of *Gang* in the device of *Kita* one would further modify either the *Kita* player 100 or external device 800 to include a storage medium like that of this claim's second element since *Gang* most reasonably discloses that the music reproducing apparatus stores a log file of user actions indicating a user's preference for music, as well as a file of explicit user ratings for music downloaded to the player. *Id.* at ¶¶ 68-69, 78. Therefore, *Kita* in view of *Gang* makes obvious all limitations of the claim.

10           **Claim 22** is limited to the player of claim 21. This claim requires the following:

“wherein the player further comprises a first docking station connector used as two or more of: a wired content communication interface, a power charging interface, a digital content output interface, an analog content output interface, and an electronic control interface.”

15    *Kita* discloses an interface 701 for receiving, at least, wired content from external device 800 and power from external device 800. *Kita* at ¶¶ 127-28. Therefore, *Kita* in view of *Gang* makes obvious all limitations of the claim.

**Claim 23** is limited to the player of claim 21. This claim requires the following:

20           “wherein the player further comprises a second docking station connector used for a vehicle docking connector with an analog content output, a digital content output and a power input.”

First, it is not apparent that the capabilities of the claimed vehicle docking connector have any bearing on the structure of the claimed second docking station connector.

Accordingly, the *Kita* interface 701 for receiving, at least, wired content from external device 800 and power from external device 800 corresponds to the claimed second

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docking station connector of this claim. *Kita* at ¶¶ 127-28. Therefore, *Kita* in view of *Gang* makes obvious all limitations of the claim.

**Claim 24** is limited to the player of claim 21. This claim requires that the player comprises a rechargeable battery and battery charging circuitry. *Kita* similarly discloses  
5 a rechargeable battery 216 and associated charger 702. *Kita* at ¶¶ 127-28. Therefore, *Kita* in view of *Gang* makes obvious all limitations of the claim.

**Claim 25** is limited to the player of claim 21. This claim requires that the player is configured to use as a content source one or more of a personal computer, a peer player or a website. Likewise, *Kita* discloses downloading music from a music distribution  
10 service website. *Id.* at ¶ 155. Therefore, *Kita* in view of *Gang* makes obvious all limitations of the claim.

**Claim 27** is limited to the player of claim 21. This claim requires that the transceiver link further comprises a wired transceiver link. *Kita* discloses using either a MODEM 809 or a LAN connection 808 to establish a wired connection to the music  
15 distribution service site. *Id.* at ¶ 155, fig.4. Therefore, *Kita* in view of *Gang* makes obvious all limitations of the claim.

**Claim 28** is limited to the player of claim 21. This claim requires that the transceiver link comprises a wireless local area network. *Kita* discloses using either a MODEM 809 or a LAN connection 808 to establish a wired connection to the music  
20 distribution service site. *Id.* at ¶ 155, fig.4. However, the Examiner takes Official Notice that replacing a wired LAN with a wireless LAN, such as that provided in accordance with the IEEE 802.11 family, was well known at the time of Applicant's invention.



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Accordingly, one of ordinary skill in the art would have found using a wireless LAN obvious as an equivalent means for connection between the external device 800 of *Kita* and the music distribution service site. Therefore, *Kita* in view of *Gang* makes obvious all limitations of the claim.

5           **Claim 29** is limited to the player of claim 21. This claim requires the following:

“wherein the user content preferences data is based on one or more of the following: a song title; a user-defined playlist of song titles; a user-defined genre associated with a content file; an album title; an artist; or another item of metadata associated with a content file.”

10   According to the combination of *Kita* and *Gang*, one of ordinary skill in the art at the time of Applicant’s invention would have found using stored user preferences obvious to reduce the time required for a user to select new music from a music distribution server. *See* the rejection of claim 21, *supra*. Furthermore, *Gang* discloses that in providing user preferences, the user provides feedback to update the preferences. *Gang* at ¶ 77-78.

15   Such feedback includes metadata, such as how much a user likes a particular song, is recorded in the player device and then uploaded to the content provider. *Id.* Therefore, *Kita* in view of *Gang* makes obvious all limitations of the claim.

**Claim 30** is limited to the player of claim 21. This claim requires the following:

20           “a second instruction component for managing content downloading, the second instruction component enabling a user to define for communication to a content source user content preferences specifying a schedule for when content is automatically downloaded to the player.”

According to *Gang*, a user can also establish, as a preference, subscription to a daily music recommendation that automatically sends a recommendation to a user’s voicemail.

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*Id.* at ¶¶ 83-84. Therefore, *Kita* in view of *Gang* makes obvious all limitations of the claim.

**Claim 31** is limited to the player of claim 21. This claim requires that “the usage data tracks and analyzes content playback.” According to the foregoing combination of *Kita* and *Gang* in the rejection of claim 21, one of ordinary skill in the art at the time of Applicant’s invention would have found obvious using stored user content preferences data to reduce the time required for a user to select new music from a music distribution server. *See* the rejection of claim 21, *supra*. Furthermore, *Gang* discloses that in providing user preferences, the user provides feedback to update the preferences. *Id.* at ¶ 77-78. Such feedback includes metadata, such as whether a song has been played. *Id.* Therefore, *Kita* in view of *Gang* makes obvious all limitations of the claim.

**Claim 32** is limited to the player of claim 31. This claim requires the following:

“wherein the content source has stored user content preference information and the usage file is configured for analysis by the content source and for facilitating modification of the stored user content preferences in response to the usage file.”

According to the combination of *Kita* and *Gang*, one of ordinary skill in the art at the time of Applicant’s invention would have found using stored user preferences obvious to reduce the time required for a user to select new music from a music distribution server. *See* the rejection of claim 21, *supra*. Furthermore, *Gang* discloses that in providing user preferences, the user provides feedback to update the preferences. *Gang* at ¶ 77-78. Such feedback includes metadata, such as whether a song has been played, is recorded in the player device and then uploaded to the content provider. *Id.* The music source

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updates its stored user preferences and then provides a new recommendation. *See id.*

Therefore, *Kita* in view of *Gang* makes obvious all limitations of the claim.

**Claim 39** is limited to the player of claim 21. This claim requires the following:

5       “an interface associated with the player for receiving user content preferences  
data and transmitting it via a wireless transceiver link to the content source.”

According to the combination of *Kita* and *Gang*, one of ordinary skill in the art at the time of Applicant’s invention would have found using stored user preferences obvious to reduce the time required for a user to select new music from a music distribution server.

10       *See* the rejection of claim 21, *supra*. Furthermore, *Gang* discloses that in providing user preferences, the user provides feedback to update the preferences. *Gang* at ¶ 77-78.

Such feedback includes metadata derived from indirect sources, *id.*, but other metadata is more direct and based on input provided through an interface associated with the player. *Id.* at ¶ 100. Therefore, *Kita* in view of *Gang* makes obvious all limitations of the claim.

**Claim 40** is limited to the player of claim 21. This claim requires the following:

15       “a docking station with two or more of the following interfaces...a docking  
connector power interface...[and] a docking connector data  
interface...wherein the player is easily mounted to and dismounted from the  
docking station providing power to the player via said docking connector  
20       power interface...[and] a data interface to an external computer via said  
docking connector data interface...”

*Kita* likewise discloses a docking station 800 with an interface 825 providing power and data. *Kita* at ¶¶ 127-28, fig.4. Therefore, *Kita* in view of *Gang* makes obvious all limitations of the claim.

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2. **Claims 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Kita* in view of *Gang* and further in view of US Patent 6,741,856 B2 (filed 09 May 2001) (“*McKenna*”).**

**Claim 26** is limited to the player of claim 21. This claim requires that the  
5 transceiver link comprises a wireless transceiver link with a virtual private network (VPN) facility. In addition to using a PC to connect to the music distribution service site, *Kita* discloses using a mobile terminal 914 to wireless connect to the service site. *Id.* at ¶ 213, fig.17B. *Kita* does not disclose using a VPN to communicate audio to the mobile phone embodiment of external device 800, but doing so would have been obvious to one  
10 of ordinary skill in the art at the time of Applicant’s invention. For instance, because *Kita* does not disclose the communication method used between the Internet 900 and mobile phone 914, one of ordinary skill in the art would have to provide a suitable method of communication. *McKenna* discloses that VPN communication is suitable for transmitting audio between the Internet and a mobile phone, like phone 914 of *Kita*. *See*  
15 *McKenna* at col. 8 ll. 15-38, col. 14 ll. 26-57, figs.1A, 1B. Therefore, *Kita* in view of *Gang* makes obvious all limitations of the claim.

3. **Claim 33 is rejected under 35 U.S.C. 102(b) and 103(a) as being unpatentable over *Kita* in view of *Gang* and further in view of US Patent Application Publication 2003/0236582 A1 (filed 25 June 2002) (“*Zamir*”).**

20 **Claim 33** is limited to the player of claim 31. This claim requires the following:

“wherein the usage file comprises information on the frequency of playback of content files, skipping of content files and failure to play content files to completion and the at least one content source modifies the stored user content preferences in response to said information.”

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*Gang* teaches tracking user behavior in order to provide implicit feedback concerning the user's music preferences. *Gang* at ¶ 78. The user behavior tracked includes playing a file, saving music and buying music, but *Gang* discloses that any other type of implicit feedback is usable. *Id.* Other types of user behavior known in the art to be suitable for providing implicit feedback concerning a user's preference includes skipping over files before they complete and whether a file successfully plays to the end. *Zamir* at ¶¶ 232-38. Each of these events is associated with a weight, such that a song played frequently will receive a higher weight than a song played less frequently, or skipped. *See id.* at ¶¶ 240-260. In this way, *Zamir* expressly teaches tracking whether a song is skipped or fails to play to the end and implicitly teaches tracking the frequency at which a song is played. Accordingly, since *Gang* allows for other types of user behavior to be tracked besides that disclosed and *Zamir* teaches the claimed user behaviors suitable for implicitly defining a user's music preferences, the claimed usage file is obvious. Therefore, *Kita* in view of *Gang* and further in view of *Zamir* makes obvious all limitations of the claim.

**4. Claims 34-37 are rejected under 35 U.S.C. 102(b) and 103(a) as being unpatentable over *Kita* in view of *Gang* and further in view of US Patent 6,782,239 B2 (filed 21 June 2002) ("*Johnson*").**

**Claim 34** is limited to the player of claim 21. This claim requires three elements as follows:

“a playback device for creating a playback signal from the stored media content;  
a playback transmitter for short range broadcast transmission of the playback signal modulated onto a broadcast signal; and

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5           a frequency selector for surveying ambient broadcast transmissions and, responsive to the ambient broadcast transmissions, selecting a broadcast signal frequency for the playback transmitter that reduces interference between the selected broadcast signal and the ambient broadcast transmissions, said step of selecting comprising finding the lowest signal strength among ambient broadcast transmissions.”

*Kita* discloses both a music data decoder 211 and music output 212 that operates just as the first element of this claim to create a playback signal from stored media content from memory card 209. *Kita* at ¶ 113. In addition, *Kita* discloses providing a radio  
10   transmission adapter 2500 that corresponds to the claimed playback transmitter that modulates audio for broadcast. *Id.* at ¶ 281. However, *Kita* does not disclose the claimed frequency selector. Despite this deficiency of *Kita*, one of ordinary skill in the art would have found it obvious at the time of Applicant’s invention to provide a clear channel selector as claimed within radio transmission adapter 2500 of *Kita*. Specifically, *Johnson*  
15   expressly teaches that such a device relieves a user from the burden of manually scanning for available radio broadcasting channels. *Johnson* at col. 1 ll. 27-44, 66-67, col. 2 ll. 1-8. In operation, *Johnson* discloses detecting a frequency with the lowest energy, or signal strength, just as claimed. *Id.* at col. 11 ll. 1-9. Therefore, *Kita* in view of *Gang* and further in view of *Johnson* makes obvious all limitations of the claim.

20           **Claim 35** is limited to the player of claim 34. This claim requires that the playback signal is an audio signal and it is modulated onto an FM broadcast band signal. *Kita* discloses providing a radio transmission adapter 2500 that corresponds to the claimed playback transmitter that modulates audio for broadcast. *Id.* at ¶ 281. Although not disclosed as an FM broadcast band signal, *Johnson* teaches that radio transmitters like  
25   that disclosed in *Kita* generally use FM transmission for communicating between a

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portable player and a radio receiver. *Johnson* at Abstract. Therefore, *Kita* in view of *Gang* and further in view of *Johnson* makes obvious all limitations of the claim.

**Claim 36** is limited to the player of claim 34. This claim requires the following:

5       “wherein the frequency selector comprises a broadcast band receiver, said  
      broadcast band receiver adapted also to provide music for realtime or near-  
      realtime playing on the player or for processing and storing as a content file.”

According to the rejection of claim 34, one of ordinary skill in the art at the time of Applicant’s invention would have found providing a clear channel selection mechanism as taught by *Johnson* within the radio adapter 2500 of *Kita*. *Johnson* discloses that its  
10   clear channel selection mechanism also operates as a broadcast band receiver that can provide realtime playing. *Johnson* at col. 6 ll. 49-55. Therefore, *Kita* in view of *Gang* and further in view of *Johnson* makes obvious all limitations of the claim.

**Claim 37** is limited to the player of claim 35. This claim requires the following:

15       “a headphone connector and a sensor operatively connected to the headphone  
      connector for inhibiting operation of the playback transmitter when a  
      headphone is connected to the headphone connector.”

*Kita* discloses that the radio transmission adapter 2500 detects whether headphones 2600 are connected and accordingly disables transmission of a playback signal from decoder section 211 and music output section 212. See *Kita* at ¶ 285. Therefore, *Kita* in view of  
20   *Gang* and further in view of *Johnson* makes obvious all limitations of the claim.

5.       **Claim 38 is rejected under 35 U.S.C. 102(b) and 103(a) as being unpatentable over *Kita* in view of *Gang* in view of *Johnson* and further in view of US Patent 5,161,251 (patented 03 November 2001) (“*Mankovitz*”).**

**Claim 38** is limited to the player of claim 38. This claim requires the following:

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“an encoder and means for accessing text data in metadata associated with the stored media content and transmitting the text data for reception in coordination with the selected broadcast signal, wherein the encoder encodes according to RDS or equivalent.”

5 None of the prior art cited in the foregoing discloses transmitting text data in metadata along with a broadcast signal according to RDS or the equivalent. However, transmitting textual metadata, such as song title, artist name and album name, along with the song's audio component is well known within the art of broadcasting audio by radio and one of ordinary skill in the art at the time of Applicant's invention would have found modifying  
10 the radio transmission adapter 2500 of *Kita* to broadcast textual metadata according to the teachings of *Mankovitz* obvious. Therefore, *Kita* in view of *Gang* in view of *Johnson* and further in view of *Mankovitz* makes obvious all limitations of the claim.

### ***Response to Arguments***

Applicant's arguments filed 25 May 2010 have been fully considered but they are  
15 not persuasive. Regarding all pending claims, Applicant alleges that *Kita* in view of *Gang* fails to make obvious the second and fourth claimed elements. Specifically, Applicant argues that *Gang* does not disclose storing on client device 74 a log file that comprises data corresponding to the claimed user content preferences data. (REM at 8-9.) Rather, *Gang* allegedly stores the log file on server 70. (*Id.*) To support this view,  
20 Applicant states that its conclusion follows “in view of the surrounding paragraphs in the specification and in view of FIG.1. (*Id.*) This vague reasoning is not persuasive, especially in light of the specific findings and arguments set forth in the rejection of claim 21, *supra*.

### ***Conclusion***



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to WALTER F. BRINEY III whose telephone number is (571)272-7513. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis A. Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Walter F. Briney III/  
Primary Examiner  
Art Unit 2614

6/4/10